IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant(s):	Bauer et al.
Case:	9-1
Serial No.:	09/783,191
Filing Date:	February 14, 2001
Group:	2642
Examiner:	William J. Deane, Jr.

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature ~~[signature]~~ Date: October 7, 2004

Title: Method and Apparatus for Dynamically Allocating Bandwidth Utilization in a Packet Telephony System

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REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants hereby reply to the Examiner's Answer, mailed August 11, 2004, in an Appeal of the final rejection of claims 1 through 41 in the above-identified patent application.

REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in Appellants' Appeal Brief.

RELATED APPEALS AND INTERFERENCES

A statement identifying related appeals is contained in Appellants' Appeal Brief.

STATUS OF CLAIMS

A statement identifying the status of the claims is contained in Appellants' Appeal Brief.

STATUS OF AMENDMENTS

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A statement identifying the status of the amendments is contained in Appellants' Appeal Brief.

SUMMARY OF INVENTION

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A Summary of the Invention is contained in Appellants' Appeal Brief.

ISSUES PRESENTED FOR REVIEW

A statement identifying the issues present for review is contained in Appellants' Appeal Brief.

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GROUPING OF CLAIMS

Appellants acknowledge that claims 5/14/23/31 stand and fall together with the rejected independent claims.

CLAIMS APPEALED

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A copy of the appealed claims is contained in an Appendix of Appellants' Appeal Brief.

ARGUMENT

Section 112 Rejections

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Claims 1-34 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner asserts that there is no proper antecedent basis for "said connections" in claim 1 (line 4), claim 10 (line 6), claim 19 (line 4), and claim 27 (line 6).

Appellants believe that claims 1, 10, 19, and 27 have proper antecedent basis for the

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term "said connections," in compliance with Section 112 (e.g., "each of said applications..."

communicating over "a connection"). Appellants are agreeable, however, to amend the claims in accordance with the Examiner's assertion upon resolution of the appeal of the rejections under 35 U.S.C. §102(b) and §103(a).

<u>Independent Claims 1, 10, 19 and 27</u>

5   The Examiner rejected independent claims 1, 10, 19, and 27 under 35 U.S.C. § 102(b) as being anticipated by Sharma et al. (U.S. Patent No. 5,546,395).

Regarding independent claim 1, the Examiner asserts that Sharma teaches "the claimed method" (Abstract; col. 1, line 67, to col. 2, line 24) and multiple applications (col. 32, line 31, to col. 33, line 4). Furthermore, the Examiner asserts that Sharma discloses a plurality of

10 applications that dynamically influence which compression scheme is used.

As Appellants have noted, Sharma is limited to bandwidth allocation for a single communications connection, or link, between two sites for a *single application*, namely, a voice compression algorithm. Although the Examiner notes that Sharma has disclosed various applications, e.g., voicemail and conferencing, Appellants could find no suggestion or disclosure by

15 Sharma that the applications are executed at the same time. Thus, Sharma is directed to bandwidth allocation for a single application.

In addition, in the text cited by the Examiner, Sharma only discloses actively tuning the speech compression ratio *based upon the quality of the communications link* and that the supervisory packet may be renegotiated to accommodate new parties due to different speech

20 compression algorithm *limitations* (col. 32, lines 31-41). Sharma does not disclose that the encoding scheme is selected based upon an *encoding requirement of said application.* Independent claims 1, 10, 19 and 27 emphasize that *the selection of an encoding scheme is based upon an encoding requirement of each application.*

Thus, Sharma does not disclose or suggest "selecting at least one encoding scheme for

25 at least one of said connections during a call set-up phase based upon encoding requirements of said application associated with said at least one connection, each of said applications having a different encoding requirement," as required by independent claims 1, 10, 19, and 27.

Regarding claims 7, 16, 25, and 33, the Examiner contends that, since both ends (or each half) of the communication link are consulted in the renegotiation, the encoding scheme is

independently selected for each half. The Examiner states that this is analogous to the handshake negotiation between two facsimile machines: one using a 14.4 modem and one using a 28.8 modem.

Appellants note that, regardless of whether both ends of the communication link are consulted in the renegotiation, Sharma does not disclose or suggest that the encoding scheme is

5   independently selected for each half. As the Examiner acknowledges, the negotiation between the facsimile machines in the above example will typically result in both communicating using a 14.4 speed. A person of ordinary skill in the art would recognize that this is indeed the typical situation. Since, as in the facsimile example, both half-circuits compromised and selected a communication speed that was *less* than the speed limitation of one of the half-circuits (due to the speed limitation of

10   the other half-circuit), the prior art teaches that the encoding schemes are ***not selected independently***. Claims 7/16/25/33, however, require an encoding scheme (that) is *independently* selected for each half-circuit associated with said at least one of connections.

In addition, the Examiner has offered various possibilities regarding Sharma's teaching of the renegotiation of an encoding scheme when a new party enters the communication.

15   Appellants note, however, that Sharma does not suggest these possibilities and does not disclose or suggest independently selecting an encoding scheme for each half-circuit. In fact, Sharma only teaches that the supervisory packet may be renegotiated to accommodate new parties which have different *speech compression algorithm limitations*.

Thus, Sharma et al., Javitt, and Weser et al., alone or in any combination, do not

20   disclose or suggest independently selecting an encoding scheme for each half-circuit, as required by dependent claims 7, 16, 25, and 33.

Independent Claim 35

Independent claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sharma et al. in view of Javitt. Claim 35 requires the step of "establishing said connection,

25   wherein said connection has a plurality of call segments between said calling party and said application, each of said call segments having a different encoding requirement; and selecting an encoding scheme for each of said call segments based on said corresponding encoding requirement."

Sharma is limited to bandwidth allocation for a single communications connection, or link, between two sites for a single application, namely, a voice compression algorithm. See, e.g.,

30   Abstract and Title (Dynamic Selection of Compression Rate for a Voice Compression Algorithm in a

Voice Over Data Modem). Javitt is directed to communication systems providing compression of voice and image communications. Neither Sharma nor Javitt disclose or suggest that each connection has a plurality of call segments each having a different encoding requirement; and that an encoding scheme is selected for each of the call segments based on the corresponding encoding

5   requirement, as required by claim 35.

Additional Cited References

Javitt was cited by the Examiner for its disclosure of "multiple connections and the call segments or half circuits and the independently selecting aspect." As noted earlier, Javitt is directed to communication systems providing compression of voice and image communications.

10   Javitt does not disclose or suggest selecting a different encoding scheme based on encoding requirements of a plurality of applications or call segments, as required by each of the independent claims of the present application.

Weser et al. was cited by the Examiner for its disclosure that "IVRs are old in the art." Weser is directed to an intelligent service peripheral device that includes a service intelligent unit

15   and a media processing unit (see, Summary of the Invention). Weser does not disclose or suggest selecting a different encoding scheme based on encoding requirements of a plurality of applications or call segments, as required by each of the independent claims of the present application.

Conclusion

The rejections of the claims under section §102 and §103 in view of Sharma et al.,

20   Javitt, and Weser et al., alone or in any combination, are therefore believed to be improper and should be withdrawn. The rejected dependent claims are believed allowable for at least the reasons identified above with respect to the independent claims.

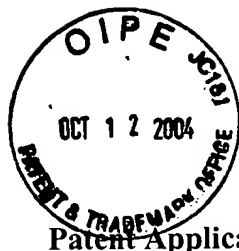The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,

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Date: October 7, 2004

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<u>TRANSMITTAL LETTER</u>

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Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

(1) Reply Brief (original and two copies).

In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Avaya Deposit Account No. 50-1602** as required to correct the error. A duplicate copy of this letter and two copies of the Reply Brief are enclosed.

Respectfully,

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Date: October 7, 2004

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